

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**ORDER WR 2005-0023-EXEC**

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In the Matter of Water Right Decision 1643  
approving Applications 29062, 29066, 30268, and 30270,  
and the petitions to change these applications, of

**DELTA WETLANDS PROPERTIES**

and

In the Matter of State Water Resources Control Board  
Resolution No. 2001-025 certifying the Final Environmental Impact Report  
for the Delta Wetlands Project

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**ORDER SETTING ASIDE DECISION 1643 AND RESOLUTION NO. 2001-025**

**BY THE EXECUTIVE DIRECTOR<sup>1</sup>**

On February 15, 2001, the State Water Resources Control Board (State Water Board) adopted Decision 1643 (D-1643) and Resolution No. 2001-025. In D-1643, the State Water Board approved, subject to terms and conditions, water right applications 29062, 29066, 30268, and 30270, and the petitions to change these applications. Delta Wetlands Properties filed these applications to appropriate water for a water development project involving the diversion of water onto two islands in the Sacramento-San Joaquin Delta that it would convert to water storage reservoirs. Pursuant to the approvals in D-1643, the State Water Board issued water right permits 21103, 21104, 21105, and 21106 to Delta Wetlands Properties.

In Resolution No. 2001-025, the State Water Board certified that the Final Environmental Impact Report for the Delta Wetlands Project complies with the requirements of the California Environmental Quality Act.

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<sup>1</sup> State Water Resources Control Board Resolution No. 2002 - 0104 delegates to the Executive Director the authority to set aside a decision or order, in whole or in part, of the State Water Board, as commanded by a peremptory writ of mandate issued to the State Water Board.

On March 16, 2001, Central Delta Water Agency, County of San Joaquin, San Joaquin County Flood Control and Water Conservation District, Reclamation District No. 2027, Reclamation District No. 2024, Reclamation District No. 2038, Reclamation District No. 2059, Reclamation District No. 2072, CCRC Farms LLC, and Palm Tract Farms (Central Delta Parties) filed litigation against the State Water Board in Sacramento County Superior Court challenging the State Water Board's adoption of Resolution No. 2001-025. (Case No. 01CS00345.) On June 14, 2001, the Central Delta Parties, after having filed a petition for reconsideration of D-1643, filed litigation in the same court challenging the State Water Board's adoption of D-1643. (Case No. 01CS00824.) These cases were consolidated under No. 01CS00345.

The Superior Court upheld D-1643 and Resolution No. 2001-025. The Central Delta Parties appealed. On appeal, the Third District Court of Appeal reversed the action of the Superior Court. (*Central Delta Water Agency v. State Water Resources Control Board* (2004) 124 Cal.App.4<sup>th</sup> 245, issued on November 19, 2004, and modified on December 16, 2004.) The Court of Appeal ordered the Superior Court to issue a peremptory writ of mandate remanding D-1643 and the permits issued pursuant to D-1643 to the State Water Board to reconsider its action in light of the Court of Appeal's decision, and to require the State Water Board to set aside D-1643, the water right permits issued pursuant to D-1643, and Resolution No. 2001-025.

On August 15, 2005, the Superior Court issued the required peremptory writ of mandate and commanded the State Water Board to make and file a return to the writ on or before October 31, 2005, setting forth what it has done to comply with the peremptory writ of mandate.

### **ORDER**

IT IS HEREBY ORDERED THAT Decision 1643, permits 21103, 21104, 21105, and 21106 issued pursuant to Decision 1643, and Resolution No. 2001-025 are set aside.

Dated: September 14, 2005

*ORIGINAL SIGNED BY*  
Celeste Cantú  
Executive Director